

**REMARKS****INTRODUCTION:**

In accordance with the foregoing, claims 25 and 27 have been canceled without prejudice or disclaimer, and claims 1 and 12 have been amended. No new matter is being presented, and approval and entry are respectfully requested.

Claims 1-21 and 28-29 are under consideration. Claims 22-24 and 26 are withdrawn. Reconsideration is respectfully requested.

**CLAIM OBJECTIONS:**

In the Office Action, at page 2, numbered paragraph 4, claims 25 and 27 were objected to under 37 CFR 1.75 as being an exact duplicate of claim 11.

Claims 25 and 27 have been cancelled without prejudice or disclaimer. Thus, the objections are now moot.

**REJECTION UNDER 35 U.S.C. §102:**

In the Office Action, at pages 3-6, numbered paragraphs 5-21, claims 1-21, 25 and 27-29 were rejected under 35 U.S.C. §102(e) as being anticipated by Oohchida et al. (USPN 6,584,060; hereafter, Oohchida). This rejection is traversed and reconsideration is requested.

Independent claims 1 and 12 have been amended to add the terminology "wherein the signal detecting photodetector is arranged such that optical noise due to reflection of light by the signal detecting photodetector is not received by the monitoring photodetector, enabling the monitoring photodetector to accurately determine a power of recording light." The amendments are, for example, based on paragraphs [0013]-[0014] of the specification. Independent claims 28 and 29 already include similar terminology.

Claims 25 and 27 have been cancelled without prejudice or disclaimer.

It is respectfully submitted that the court has held that an anticipating reference "must disclose every element of the challenged claim and enable one skilled in the art to make the anticipating subject matter." PPG Industries, Inc. v. Guardian Industries Corp., 75 F.3d 1558, 1566, 37 USPQ2d 1618, 1624 (Fed. Cir. 1996).

Anticipation requires a lack of novelty of the invention as claimed. The invention must have been known to the art in the detail of the claim; that is, all of the elements and limitations of the claim must be shown in a single prior reference, arranged as in the claim. See C.R. Bard,

Inc. v. M3 Systems, Inc., 157 F3d 1340, 1349, 48 USPQ2d 1225, 1229-30 (Fed. Cir. 1998); Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

It is respectfully submitted that the Examiner's analysis of the optical pickup device of Oohchida is flawed. The Examiner contends that element 41A, FIG. 7 of Oohchida functions as the signal detecting photodetector of the present invention, which is described in the specification, paragraph [0031], which is reproduced below for the Examiner's convenience:

[0031] Light passed through the grating 13 is transmitted through or reflected by the optical path changer 17 so that an optical path of the light is changed. The light traveling along the optical path changed by the optical path changer 17 is condensed on the disc 25 by the objective lens 23. Thereafter, light reflected from the disc 25 passes through then the objective lens 23 and the optical path changer 17 and is incident on the signal detecting photodetector 30. Information recorded on the disc 25 is reproduced on focusing servo and tracking servo are performed using a photoelectric transformation signal generated by the signal detecting photodetector 30. At this time, even if a portion of the light incident on the signal detecting photodetector 30 is reflected, the reflected light is not incident on the monitoring photodetector 11. (emphasis added)

On page 3 of the Office Action, the Examiner recites:

"a monitoring photodetector [fig. 7, unit 41A] disposed on a traveling path of the light reflected from the reflecting member and which measures the reflected light;

...

a signal detecting photodetector [fig. 7, unit 41A] which receives the light reflected from the disc [C. 15:L35 to C16:L20].

NOTE: Unit 41A performs both functions.. They are integrated together."

As is clear from paragraph [0031] of the specification, the signal detecting photodetector, e.g., see element 30, FIG. 4, of the present invention, receives light reflected from the disc that passes through the objective lens and the optical path changer and is thus incident on the signal detecting photodetector. In contrast, Oohchida, in col. 15, line 49 through col.16, line 7, recites that unit 41A receives a light beam reflected by the reflective holographic grating:

FIG. 7A illustrates a portion of an optical pick-up device according to yet another embodiment of the present invention. This embodiment is another variation of the above-explained optical pick-up device of FIG. 4A, which is capable of monitoring a power of light. A diffraction component 51A, as shown in FIG. 7B, is employed in this embodiment. A reflective holographic grating 57 for reflecting a portion of a light beam emitted from a semiconductor laser light source 11 is further formed on the diffraction component 51A, in order to provide a monitoring light beam. The reflective holographic grating 57 is disposed adjacent to a birefringent holographic grating 56 for diffracting the returning light beam. The reflective holographic grating 57 reflects a peripheral divergent light beam emitted from the semiconductor laser light source 11, which is a portion not used for irradiation on the optical recording medium. The light beam reflected by the

reflective holographic grating 57 is further reflected by a reflective region of the optical path separator 141, and is incident onto a photodetector unit 41A. The reflective holographic grating 57 also has a converging function as a lens for convergence of the reflected light beam on the photodetector unit 41A. The photodetector unit 41A further includes a monitoring detector for detecting the monitoring light beam reflected by the reflective holographic grating 57, as well as the detector for detecting the returning light beam. (emphasis added)

Hence, it is respectfully submitted that the photodetector 41A of Oohchida is not located in the same position as the signal detecting photodetector of the present invention, and does not perform the same function as the signal detecting photodetector of the present invention. Thus, it is respectfully submitted that independent claims 1, 12, 28 and 29 are not anticipated under 35 U.S.C. §102(e) by Oohchida et al. (USPN 6,584,060). Since claims 2-11 and 13-21 depend from amended claims 1 and 12, respectively, claims 2-11 and 13-21 are not anticipated under 35 U.S.C. §102(e) by Oohchida et al. (USPN 6,584,060) for at least the reasons amended independent claims 1 and 12 are not anticipated under 35 U.S.C. §102(e) by Oohchida et al. (USPN 6,584,060).

#### **CONCLUSION:**

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot, and further, that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for a telephone interview to discuss resolution of such issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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